



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	12
VAC Chapter Number:	5
Regulation Title:	Regulations Governing Restaurants
Action Title:	Adoption
Date:	January 31, 2000

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Regulations Governing Restaurants establishes minimum sanitary standards for operating restaurants. These standards include standards for the safe and sanitary maintenance, storage, operation, and use of, the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods, procedures for vector and pest control, requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code, requirements for an approved water supply and sewage disposal system, personal hygiene standards for employees, particularly those engaged in food handling, and the appropriate use of precautions to prevent the transmission of communicable diseases. The regulations also inform potential restaurant owners or operators how to obtain a permit to operate a restaurant from the Department.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The regulations are authorized and mandated by Sections 35.1-11 and 35.1-14 of the Code of Virginia. The code requires the regulations to provide minimum standards for the following: (i) a procedure for obtaining a license; (ii) the safe and sanitary maintenance, storage, operation, and use of equipment; (iii) the sanitary maintenance and use of a restaurant's physical plant; (iv) the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods; (v) procedures for vector and pest control; (vi) requirements for toilet and cleansing facilities for employees and customers; (vii) requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; (viii) requirements for an approved water supply and sewage disposal system; (ix) personal hygiene standards for employees, particularly those engaged in food handling; and (x) the appropriate use of precautions to prevent the transmission of communicable diseases.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the regulations is to ensure that the dining public is protected by establishing minimum sanitary standards for restaurants. The regulations provided minimum standards for the source of foods in restaurants, the safe handling, storage, preparation and serving of food, personnel hygiene of the employees, precautions to prevent the transmission of diseases communicable through food, and the general sanitation of the facility. When followed, these minimum standards will protect the public's health, safety and welfare.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The proposed regulations will be replacing the existing regulations that were last revised in 1984. Since then the emergence of new strains of bacteria and other organisms, such as E. coli O157:H7 and cyclospora, have greatly affected the food industry. With the emergence of these new organisms come new control measures that must be instituted to prevent a foodborne outbreak. The proposed regulations incorporate new control measures for prevention of foodborne disease. The regulations also incorporate the principles of Hazard Analysis Critical Control Point (HACCP) in the food service establishment. HACCP focuses on the flow and handling of food through the establishment, focusing on the hazards encountered rather than structural requirements of the building. These regulations are based on the FDA 1997 Model Food Code, which is supported by the National Restaurant Association.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage of the regulations is that they establish modern science based standards that has broad support in the food service and food regulatory communities. More emphasis is placed on the flow and handling of the food through the establishment. Several new standards are the result of new pathogens that have emerged since the regulations were last revised.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's

best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The Department anticipates little or no negative budgetary impact with these regulations. The Department has been conducting inspections of restaurants for many years so this is not a new program. Initially there will be some cost associated with training but the training is planned to be as cost effective as possible. FDA has agreed to assist with training key individuals at no cost to the agency.

The restaurant industry should not be adversely impacted by the regulations. They participated in the drafting of the regulations and they support their amendment. The National Restaurant Association is supportive all states adopting the FDA Model Food Code as state regulation. This promotes uniformity across the nation, which is desirable for chain restaurants that operate in multiple states.

One potential impact on restaurants will be the new requirement to hold cold potentially hazardous foods at a temperature below 41°F instead of the current 45°F. This change is recommended by FDA to slow the growth of *Listeria monocytogenes* bacteria in foods that may contain that organism. The lower temperature has the benefit of not only preventing the rapid growth of this organism, but it also permits ready-to-eat foods to be held longer under refrigeration, 7 days as opposed to 4 days at 45 degrees. The Department is following the recommendation in the FDA Model Food Code to allow existing restaurants with refrigeration equipment capable of maintaining food at 45°F five years from the effective date of the regulations to upgrade their equipment to meet the 41°F requirement.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Description of Changes to Regulations Governing Restaurants

New Section	Current Section	Discussion
12 VAC 5-420-10	12 VAC 5-420-10	Some new definitions that reflect changes in the regulations. No really substantive change that will have an economic impact.
12 VAC 5-420-20	12 VAC 5-420-20	No change.
12 VAC 5-420-30	12 VAC 5-420-30	No change.
12 VAC 5-420-40	12 VAC 5-420-40	No change.
12 VAC 5-420-50	New addition	Requires designation of “person in charge” during all hours of operation. This person must demonstrate certain knowledge and is the department’s contact person during a visit.
12 VAC 5-420-60	New addition	Requires person in charge to be able to demonstrate knowledge of food safety principles, foodborne disease prevention, and the requirements of the regulations.
12 VAC 5-420-70	New addition	Lists responsibilities of person in charge.
12 VAC 5-420-80	New addition	Requires person in charge to obtain information about health of new employees as it relates to diseases transmissible through food. Also requires applicant to report certain illnesses or exposure to person in charge.

12 VAC 5-420-90	12 VAC 5-420-270	Expansion and more detailed description of and 280 when to restrict or exclude a worker. Puts in regulation what has been practiced for years.
12 VAC 5-420-100	12 VAC...270-280	Detailed explanation of when excluded or restricted person may return. Puts in regulation what has been practiced for years.
12 VAC 5-420-110	New addition	Requires employees to report illnesses to person in charge. Puts in regulation what has been practiced for years.
12 VAC 5-420-120	New addition	Requires person in charge to report applicants or employees who are infected with certain specified diseases to the local health department. Puts in regulation what has been practiced for years.
12 VAC 5-420-130	12 VAC 5-420-690	Requires food employees to wash their hands and exposed portions of arms. No substantive change.
12 VAC 5-420-140	New addition	Tells employee how to wash hands. No substantive change to practice in place for some time.
12 VAC 5-420-150	Reserved	Reserved in the event double handwashing is later adopted.
12 VAC 5-420-160	12 VAC 5-420-690	Tells employee when hands are to be washed. No substantive change.
12 VAC 5-420-170	New addition	Tell employees where to wash hands. No substantive change.
12 VAC 5-420-180	New addition	Tells employees when hand sanitizers can be used, what kinds can be used, and how to use them.
12 VAC 5-420-190	New addition	Establishes requirements for fingernail maintenance.
12 VAC 5-420-200	New addition	Establishes where wearing of jewelry is prohibited.
12 VAC 5-420-210	12 VAC 5-420-700	No substantive change.

12 VAC 5-420-220	12 VAC 5-420-730	No substantive change
12 VAC 5-420-230	New addition	Restricts employees with eye, nose, or mouth discharges.
12 VAC 5-420-240	12 VAC 5-420-710	No substantive change.
12 VAC 5-420-250	12 VAC 5-420-1880	Similar to current 1880 – but deals more with food employees handling of animals. New language.
12 VAC 5-420-260	12 VAC 5-420-290	Rewording of current requirement.
12 VAC 5-420-270	12 VAC 5-420-290	Rewording – no substantive change.
12 VAC 5-420-280	12 VAC 5-420-290	Rewording - no substantive change.
12 VAC 5-420-290	12 VAC 5-420-300	Rewording - no substantive change.
12 VAC 5-420-310	12 VAC 5-420-310	Rewording - no substantive change.
12 VAC 5-420-320	New addition	Establishes requirements for wild mushrooms.
12 VAC 5-420-330	12 VAC 5-420-290	Expansion and extrapolation from existing language. Places in regulation what has been the practice for years.
12 VAC 5-420-340	12 ...410, 420, 430, 450, and 460.	Combination of several current sections. Reduces cold holding temperature from 45°F to 41°F.
12 VAC 5-420-350	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-360	12 VAC 5-420-320	Rewording - no substantive change.
12 VAC 5-420-370	12...320 and 300	Rewording - no substantive change.
12 VAC 5-420-380	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-390	New addition.	Places in regulation what has been the practice for years.

12 VAC 5-420-400	12 VAC 5-420-310	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-410	12 VAC 5-420-310	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-420	12...290 and 310	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-430	12 VAC 5-420-310	Rewording - no substantive change.
12 VAC 5-420-440	12 VAC 5-420-310	Rewording - no substantive change.
12 VAC 5-420-450	12...480 and 690	Rewording - no substantive change.
12 VAC 5-420-460	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-470	12...330, 370 and 380	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-480	12 VAC 5-420-350	Rewording - no substantive change.
12 VAC 5-420-490	New addition.	New requirements based on increased risks involved in using raw eggs in certain recipes.
12 VAC 5-420-500	New addition	New requirements and inclusion of § 35.1-14.1 of the Code of Virginia which prohibits use of sulfiting agents.
12 VAC 5-420-510	12 VAC 5-420-490	Rewording - no substantive change.
12 VAC 5-420-520	12 VAC 5-420-440	Rewording - no substantive change.
12 VAC 5-420-530	12 VAC 5-420-390	Rewording - no substantive change.
12 VAC 5-420-540	New addition.	Additional requirements for storage of food. Places in regulation what has been the practice for years.
12 VAC 5-420-550	12...620 and 630	Rewording - no substantive change.

12 VAC 5-420-560	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-570	12...1010, 1020, and 1030.	Rewording - no substantive change.
12 VAC 5-420-580	New addition.	Establishes requirements for use of gloves, if gloves are used.
12 VAC 5-420-590	12 VAC 5-420-660	Rewording - no substantive change.
12 VAC 5-420-600	New addition.	New requirements that will affect less than 5-10% of restaurants. Places in regulation what has been the practice for years.
12 VAC 5-420-610	12 VAC 5-420-360	Rewording - no substantive change.
12 VAC 5-420-620	12 VAC 5-420-370	Rewording - no substantive change.
12 VAC 5-420-630	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-640	12...330 and 350	Rewording - no substantive change.
12 VAC 5-420-650	12 VAC 5-420-650	Rewording - no substantive change.
12 VAC 5-420-660	12 VAC 5-420-610	Rewording - no substantive change.
12 VAC 5-420-670	12...630 and 650	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-680	12 VAC 5-420-640	Rewording - no substantive change.
12 VAC 5-420-690	New addition.	New requirement that emphasize the protection of food from contamination.
12 VAC 5-420-700	12 VAC 5-420-500	Similar to what is in regulations now but it lists the minimum food temperatures and times for various foods. Reflects current food science. Much of this has been practiced by the food industry for some time.

12 VAC 5-420-710	New addition	Establishes minimum cooking requirements or raw animal products using microwaves.
12 VAC 5-420-720	New addition	Establishes minimum cooking requirements for fruits and vegetables.
12 VAC 5-420-730	New addition	Establishes handling procedures for parasite destruction in various fish.
12 VAC 5-420-740	New addition	Establishes criteria for record creation and retention.
12 VAC 5-420-750	New addition	Clarifies requirement reheating for immediate service. Places in regulation what has been the practice for years.
12 VAC 5-420-760	12 VAC 5-420-530	Rewording - no substantive change. More detailed description than in current regulations
12 VAC 5-420-770	12 VAC 5-420-430	Rewording - no substantive change.
12 VAC 5-420-780	New addition	New requirements for slacking of potentially hazardous foods.
12 VAC 5-420-790	12 VAC 5-420-560	Rewording - no substantive change.
12 VAC 5-420-800	12 VAC 5-420-420	Change in cooling procedure. Instead of cooling to 45°F within four hours, potentially hazardous foods must be cooled from 140°F to 70°F within two hours and then from 70°F to 41°F within four hours.
12 VAC 5-420-810	New addition.	Describes methods for accomplishing requirements of 12 VAC 5-420-800.
12 VAC 5-420-820	12...450 and 460	Rewording - no substantive change.
12 VAC 5-420-830	New addition.	New requirements for date marking of ready-to-eat, potentially hazardous foods. Places in regulation what many establishments are already doing.
12 VAC 5-420-840	New addition.	New requirements for disposition of ready-to-eat, potentially hazardous food.

12 VAC 5-420-850	New addition.	New regulation. Places in regulation what has been the practice for a while by policy.
12 VAC 5-420-860	New addition.	New addition. However, the process for obtaining a variance is the same as currently in regulations.
12 VAC 5-420-870	New addition	New requirements for reduced oxygen packaging. Very few, if any, restaurants are likely to being involved in reduced oxygen packaging. Should have little impact.
12 VAC 5-420-880 through 930		Reserved in event food identity, presentation and labeling become more of an issue.
12 VAC 5-420-940	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-950	New addition.	More regulations for foods served to highly susceptible populations. Much of this is already in practice in the food industry serving such populations.
12 VAC 5-420-960	12...750, 810, and 820.	Rewording - no substantive change.
12 VAC 5-420-970	12 VAC 5-420-820	Rewording - no substantive change.
12 VAC 5-420-980	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-990	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1000	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1010	12...1010-1030	Change: prohibits use of sponges in contact with cleaned and sanitized or in-use food-contact surfaces.
12 VAC 5-420-1020	New addition	Places in regulation what has been the practice for years.

12 VAC 5-420-1030	12 VAC 5-420-760	Rewording - no substantive change. Places in regulation what has been the practice for years.
12 VAC 5-420-1040	12 VAC 5-420-770	Rewording - no substantive change.
12 VAC 5-420-1050	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1060	12 VAC 5-420-890	Rewording - no substantive change.
12 VAC 5-420-1070	12...750 and 780	Rewording - no substantive change.
12 VAC 5-420-1080	12 VAC 5-420-810	Rewording - no substantive change.
12 VAC 5-420-1090	12 VAC 5-420-880	Rewording - no substantive change.
12 VAC 5-420-1100	12 VAC 5-420-820	Rewording - no substantive change.
12 VAC 5-420-1110	12 VAC 5-420-870	Rewording - no substantive change.
12 VAC 5-420-1120	12 VAC 5-420-820	Rewording - no substantive change.
12 VAC 5-420-1130	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1140	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1150	12 VAC 5-420-890	Rewording - no substantive change.
12 VAC 5-420-1160	New addition	Allows kick plates to be removable. Gives permit holder more options.
12 VAC 5-420-1170	12 VAC 5-420-900	Rewording - no substantive change.
12 VAC 5-420-1180	12 VAC 5-420-880	Rewording - no substantive change.
12 VAC 5-420-1190	12...410 and 450	Rewording - no substantive change.
12 VAC 5-420-1200	12 VAC 5-420-1120	Rewording - no substantive change.
12 VAC 5-420-1210	12 VAC 5-420-900	Rewording - no substantive change.

12 VAC 5-420-1220	New addition.	Additional requirements for equipment design. Pretty much standard practice in food industry.
12 VAC 5-420-1230	New addition	New requirements for vending machines. Very little impact on industry. Standard practice.
12 VAC 5-420-1240	New addition.	New language reflects industry standards.
12 VAC 5-420-1250	12 VAC 5-420-830	Rewording - no substantive change.
12 VAC 5-420-1260	12 VAC 5-420-840	Change, now prohibits beverage tubes in contact with stored ice.
12 VAC 5-420-1270	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1280	New addition	Provides better protection of food.
12 VAC 5-420-1290	New addition	Industry standards.
12 VAC 5-420-1300	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1310	New addition	Industry standard.
12 VAC 5-420-1320	12...410, 450, and 1120.	Rewording - no substantive change.
12 VAC 5-420-1330	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1340	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1350	12 VAC 5-420-1040	Rewording - no substantive change.
12 VAC 5-420-1360	12 VAC 5-420-1080	Rewording - no substantive change.
12 VAC 5-420-1370	New addition	New requirement for audio visual low chemical sanitizer. Five years from adoption to comply. Industry says that should not be a problem.
12 VAC 5-420-1380	12 VAC 5-420-1120	Rewording - no substantive change.

12 VAC 5-420-1390	12 VAC 5-420-1120	Rewording - no substantive change.
12 VAC 5-420-1400	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1410	New addition	Reflects industry standards.
12 VAC 5-420-1420	12 VAC 5-420-360	Rewording - no substantive change.
12 VAC 5-420-1430	New addition	Reflects industry standards.
12 VAC 5-420-1440	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1450	12...410 and 450	Rewording - no substantive change.
12 VAC 5-420-1460	12...1040 and 1070	Rewording - no substantive change.
12 VAC 5-420-1470	12 VAC 5-420-1120	Rewording - no substantive change.
12 VAC 5-420-1480	12 VAC 5-420-900	Rewording - no substantive change.
12 VAC 5-420-1490	12 VAC 5-420-1840	Rewording - no substantive change.
12 VAC 5-420-1500	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1510	12 VAC 5-420-550	Rewording - no substantive change.
12 VAC 5-420-1520	12 VAC 5-420-1120	Rewording - no substantive change.
12 VAC 5-420-1530	12 VAC 5-420-1110	Rewording - no substantive change.
12 VAC 5-420-1540	12 VAC 5-420-1850	Rewording - no substantive change.
12 VAC 5-420-1550	12...920-940	Rewording - no substantive change.
12 VAC 5-420-1560	12...920 and 930	Rewording - no substantive change.
12 VAC 5-420-1570	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1580	New addition	Places in regulation what has been the practice for years.

12 VAC 5-420-1590	New addition	Rewording to reflect industry standards.
12 VAC 5-420-1600	12 VAC 5-420-1150	Rewording - no substantive change.
12 VAC 5-420-1610	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1620	12 VAC 5-420-1040	Places in regulation what has been the practice for years.
12 VAC 5-420-1630	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1640	12...1070 and 1130	Rewording - no substantive change.
12 VAC 5-420-1650	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1660	12 VAC 5-420-1140	Rewording - no substantive change.
12 VAC 5-420-1670	12 VAC 5-420-1080	Rewording - no substantive change.
12 VAC 5-420-1680	12 VAC 5-420-1140	Rewording - no substantive change.
12 VAC 5-420-1690	12 VAC 5-420-1120	Rewording - no substantive change.
12 VAC 5-420-1700	12...1090 and 1130	Rewording - no substantive change.
12 VAC 5-420-1710	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1720	12 VAC 5-420-1130	Rewording - no substantive change.
12 VAC 5-420-1730	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1740	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-1750	12 VAC 5-420-800	Rewording - no substantive change.
12 VAC 5-420-1760	12 VAC 5-420-790	Rewording - no substantive change.
12 VAC 5-420-1770	12...960-1000	Rewording - no substantive change.
12 VAC 5-420-1780	12...960-1000	Rewording - no substantive change.

12 VAC 5-420-1790	New addition	New language to require in-use cooking and backing equipment to be cleaned at least every 24 hours.
12 VAC 5-420-1800	12 VAC 5-420-1000	Rewording - no substantive change.
12 VAC 5-420-1810	New addition.	New language and requirements regarding dry cleaning of surfaces.
12 VAC 5-420-1820	12 VAC 5-420-1060	Rewording - no substantive change.
12 VAC 5-420-1830	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1840	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1850	12...1070-1140	Rewording - no substantive change.
12 VAC 5-420-1860	12...1080-1140	Rewording - no substantive change.
12 VAC 5-420-1870	New addition	New requirements governing returnables. Estimated to affect less than 3% of the total restaurants.
12 VAC 5-420-1880	12...970-980	Rewording - no substantive change.
12 VAC 5-420-1890	12...970-980	Rewording - no substantive change.
12 VAC 5-420-1900	12...1080-1140	Rewording - no substantive change.
12 VAC 5-420-1910	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1920	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-1930	12 VAC 5-420-1860	Rewording - no substantive change.
12 VAC 5-420-1940	12...1840 and 1850	Rewording - no substantive change.
12 VAC 5-420-1950	12...1840 and 1850	Rewording - no substantive change.
12 VAC 5-420-1960	12 VAC 5-420-1170	Rewording - no substantive change.

12 VAC 5-420-1970	12 VAC 5-420-1840	Rewording - no substantive change.
12 VAC 5-420-1980	12 VAC 5-420-830	Rewording - no substantive change.
12 VAC 5-420-1990	New addition.	Places in regulation what has been the practice for years.
12 VAC 5-420-2000	12...910, 1180-1220	Rewording - no substantive change.
12 VAC 5-420-2010	12...910, 1180-1220	Rewording - no substantive change.
12 VAC 5-420-2020	12...1180-1220	Rewording - no substantive change.
12 VAC 5-420-2030	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2040	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2050	12 VAC 5-420-1230	Rewording - no substantive change.
12 VAC 5-420-2060	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2070	12 VAC 5-420-1260	Rewording - no substantive change.
12 VAC 5-420-2080	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2090	New Addition	New restrictions for using nondrinking water. No substantive change from current practice.
12 VAC 5-420-2100	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2110	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2120	12 VAC 5-420-1230	Rewording - no substantive change.
12 VAC 5-420-2130	12 VAC 5-420-1260	Rewording - no substantive change.
12 VAC 5-420-2140	New Addition	Places in regulation what has been the practice for years.

12 VAC 5-420-2150	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2160	12...1920, 2060 and 1400	Rewording - no substantive change.
12 VAC 5-420-2170	12 VAC 5-420-1300	Rewording - no substantive change.
12 VAC 5-420-2180	12 VAC 5-420-1300	Rewording - no substantive change.
12 VAC 5-420-2190	12...1390, 1410 and 1420	Rewording - no substantive change.
12 VAC 5-420-2200	12 VAC 5-420-1320	Rewording - no substantive change.
12 VAC 5-420-2210	12 VAC 5-420-1320	Rewording - no substantive change.
12 VAC 5-420-2220	New Addition	New language for water conditioning device design. Little impact on restaurants.
12 VAC 5-420-2230	12 VAC 5-420-1390	Rewording - no substantive change.
12 VAC 5-420-2240	12...1360-1380	Rewording - no substantive change.
12 VAC 5-420-2250	12 VAC 5-420-1620	Rewording - no substantive change.
12 VAC 5-420-2260	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2270	New Addition	Reserved for future use.
12 VAC 5-420-2280	12...1390 and 1410-1420	Rewording - no substantive change.
12 VAC 5-420-2290	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2300	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2310	12...1390 and 1410-1420	Rewording - no substantive change.
12 VAC 5-420-2320	New Addition	Places in regulation what has been the practice for years.

12 VAC 5-420-2330	New Addition	Requires recordkeeping for water treatment devices. Should not be much of an impact on restaurants.
12 VAC 5-420-2340	New Addition	New requirements for use of produce foggers. Not likely to impact many (less than 3%) of restaurants.
12 VAC 5-420-2350	12 VAC 5-420-1310	Rewording - no substantive change.
12 VAC 5-420-2360	12 VAC 5-420-1920	Rewording - no substantive change. Also places in regulation what has been the practice for years.
12 VAC 5-420-2370	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2380	New Addition	New written requirements for water holding tanks, if used, on mobile units. No anticipated impact.
12 VAC 5-420-2390	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2400	New Addition	Requirements for water tank vent, if provided. No significant impact.
12 VAC 5-420-2410	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2420	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2430	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2440	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2450	New Addition	New specific requirements for mobile units tank inlet. Should not impact mobile food units to much degree.
12 VAC 5-420-2460	New Addition	Places in regulation what has been the practice for years.

12 VAC 5-420-2470	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2480	12 VAC 5-420-1920	Rewording - no substantive change.
12 VAC 5-420-2490	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2500	12 VAC 5-420-1940	Rewording - no substantive change.
12 VAC 5-420-2510	New Addition	Identifies which sections of regulations govern design of waste drainage system.
12 VAC 5-420-2520	12 VAC 5-420-1320	Rewording - no substantive change.
12 VAC 5-420-2530	12 VAC 5-420-1330.	Rewording - no substantive change.
12 VAC 5-420-2540	12 VAC 5-420-1290	Rewording - no substantive change.
12 VAC 5-420-2550	12 VAC 5-420-1940	Rewording - no substantive change.
12 VAC 5-420-2560	12 VAC 5-420-1940	Rewording - no substantive change.
12 VAC 5-420-2570	12 VAC 5-420-1290	Rewording - no substantive change.
12 VAC 5-420-2580	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2590	12 VAC 5-420-1450	Rewording - no substantive change.
12 VAC 5-420-2600	12 VAC 5-420-1460	Rewording - no substantive change.
12 VAC 5-420-2610	12 VAC 5-420-1460	Rewording - no substantive change.
12 VAC 5-420-2620	12 VAC 5-420-1480	Rewording - no substantive change.
12 VAC 5-420-2630	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2640	12 VAC 5-420-1480	Rewording - no substantive change.
12 VAC 5-420-2650	12...1460 and 1470	Rewording - no substantive change.
12 VAC 5-420-2660	12 VAC 5-420-1370	Rewording - no substantive change.

12 VAC 5-420-2670	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2680	New Addition	New requirements for redeeming machines. Not likely to affect many restaurants.
12 VAC 5-420-2690	12 VAC 5-420-1440	Rewording - no substantive change.
12 VAC 5-420-2700	12...1450 and 1460	Rewording - no substantive change.
12 VAC 5-420-2710	12...1440 and 1460	Rewording - no substantive change.
12 VAC 5-420-2720	12 VAC 5-420-1480	Rewording - no substantive change.
12 VAC 5-420-2730	12 VAC 5-420-1480	Rewording - no substantive change.
12 VAC 5-420-2740	12...1450-1480	Rewording - no substantive change.
12 VAC 5-420-2750	12 VAC 5-420-1480	Rewording - no substantive change.
12 VAC 5-420-2760	12...1450-1460	Rewording - no substantive change.
12 VAC 5-420-2770	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2780	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2790	12...1520-1600	Rewording - no substantive change.
12 VAC 5-420-2800	12...1790-1800	Rewording - no substantive change.
12 VAC 5-420-2810	12...1520-1600	Rewording - no substantive change.
12 VAC 5-420-2820	12...1580 and 1600	Rewording - no substantive change.
12...2830-2880	12...1580-1600	Rewording - no substantive change.
12 VAC 5-420-2890	12...1650 and 1660	Rewording - no substantive change.
12 VAC 5-420-2900	12...1670-1690	Rewording - no substantive change.
12 VAC 5-420-2910	12...1500-1510	Rewording - no substantive change.
12 VAC 5-420-2920	12...1360-1380	Rewording - no substantive change.

12 VAC 5-420-2930	12 VAC 5-420-1510	Rewording - no substantive change.
12 VAC 5-420-2940	12 VAC 5-420-1510	Rewording - no substantive change.
12 VAC 5-420-2950	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2960	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-2970	12 VAC 5-420-1800	Rewording - no substantive change.
12 VAC 5-420-2980	12 VAC 5-420-1460	Rewording - no substantive change.
12...2990-3000	12 VAC 5-420-1830	Rewording - no substantive change.
12...3010-3050	12...1390-1430	Rewording - no substantive change.
12...3060-3070	12...1360-1380	Rewording - no substantive change.
12 VAC 5-420-3080	12...1630-1640	Rewording - no substantive change.
12 VAC 5-420-3090	12...1670-1690	Rewording - no substantive change.
12 VAC 5-420-3100	12...1700-1710	Rewording - no substantive change.
12 VAC 5-420-3110	12 VAC 5-420-1620	Rewording - no substantive change.
12 VAC 5-420-3120	12 VAC 5-420-1390	Rewording - no substantive change.
12 VAC 5-420-3130	12 VAC 5-420-1360	Rewording - no substantive change.
12 VAC 5-420-3140	12...720-730	Rewording - no substantive change.
12 VAC 5-420-3150	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3160	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3170	12...1520 and 1590	Rewording - no substantive change.
12 VAC 5-420-3180	Several sections	Always a basic requirement for restaurants.
12 VAC 5-420-3190	12 VAC 5-420-1610	Rewording - no substantive change.

12 VAC 5-420-3200	12...1670-1690	Rewording - no substantive change.
12 VAC 5-420-3210	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3220	12 VAC 5-420-1870	Rewording - no substantive change.
12 VAC 5-420-3230	12 VAC 5-420-1540	Rewording - no substantive change.
12 VAC 5-420-3240	12 VAC 5-420-1430	Rewording - no substantive change.
12 VAC 5-420-3250	12 VAC 5-420-1370	Rewording - no substantive change.
12 VAC 5-420-3260	12...1700-1710	Rewording - no substantive change
12 VAC 5-420-3270	12 VAC 5-420-1500	Rewording - no substantive change.
12 VAC 5-420-3280	New Addition	Common sense.
12 VAC 5-420-3290	12 VAC 5-420-1870	Rewording - no substantive change.
12 VAC 5-420-3300	12...1790 & 1810	Rewording - no substantive change.
12 VAC 5-420-3310	12 VAC 5-420-1880	Rewording - no substantive change.
12...3320-3370	12...1720-1770	Rewording - no substantive change.
12 VAC 5-420-3380	12 VAC 5-420-1110	Rewording - no substantive change.
12 VAC 5-420-3390	New Addition	New language that refers to Code of Federal Regulations requirements.
12 VAC 5-420-3400	New Addition	New language that refers to Code of Federal Regulations requirements.
12 VAC 5-420-3410	New Addition	Reference to requirements in Code of Federal Regulations.
12 VAC 5-420-3420	12 VAC 5-420-830	Rewording - no substantive change.
12 VAC 5-420-3430	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3440	New Addition	Places in regulation what has been the practice for years.

12 VAC 5-420-3450	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3460	12 VAC 5-420-1780	Rewording - no substantive change.
12 VAC 5-420-3470	New Addition	Common sense.
12 VAC 5-420-3480	12 VAC 5-420-1780	Rewording - no substantive change.
12 VAC 5-420-3490	12 VAC 5-420-1710	Rewording - no substantive change.
12 VAC 5-420-3500	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3510	New Addition	Administration of regulations – basically same as currently practiced.
12 VAC 5-420-3520	New Addition	Administration of regulations - basically same as currently practiced.
12 VAC 5-420-3530	12 VAC 5-420-50	Rewording - no substantive change.
12 VAC 5-420-3540	12 VAC 5-420-60	Rewording - no substantive change.
12 VAC 5-420-3550	12 VAC 5-420-70	Same
12 VAC 5-420-3560	12 VAC 5-420-80	Same
12...3570-3590	12 VAC 5-420-240.D	Rewording - no substantive change.
12 ...3600-3610	12 VAC 5-420-130	Rewording - no substantive change.
12 VAC 5-420-3620	New Addition	Requirements for submitting a HACCP plan – HACCP plans are not required, but if one is submitted, these are the requirements.
12 VAC 5-420-3630	New Addition	Contents of a HACCP Plan.
12 VAC 5-420-3640	New Addition	New requirements dealing with trade secrets and confidentiality.
12 VAC 5-420-3650	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3660	12 VAC 5-420-110	Rewording - no substantive change.

12...3670-3680	12 VAC 5-420-120	Rewording – adds requirement for application to be submitted 30 days in advance of opening.
12 VAC 5-420-3690	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3700	12 VAC 5-420-120	Rewording - no substantive change.
12 VAC 5-420-3710	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3720	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3730	12 VAC 5-420-150	Rewording - no substantive change.
12 VAC 5-420-3740	New addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3750	New Addition	Lists requirement of permit holder. Essentially the same as has always been, but put in regulation form.
12 VAC 5-420-3760	12 VAC 5-420-110	Rewording - no substantive change.
12 VAC 5-420-3770	12 VAC 5-420-160	Rewording - no substantive change.
12 VAC 5-420-3780	12 VAC 5-420-170	Rewording - no substantive change.
12 VAC 5-420-3790	12 VAC 5-420-190	Rewording - no substantive change.
12 VAC 5-420-3800	12 VAC 5-420-200	Rewording - no substantive change.
12 VAC 5-420-3810	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3820	New Addition	Places in regulations basically what has been in Virginia law for years.
12 VAC 5-420-3830	New Addition	Places in regulation what has been the practice and in law for years.
12 VAC 5-420-3840	New Addition	Places in regulation what has been the practice for years.

12 VAC 5-420-3850	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3860	12 VAC 5-420-210	Rewording - no substantive change.
12 VAC 5-420-3870	12...210 and 220	Rewording - no substantive change.
12 VAC 5-420-3880	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3890	New Addition	Places in regulation what has been the practice for years.
12 VAC 5-420-3900	12 VAC 5-420-210	Rewording - no substantive change.
12 VAC 5-420-3910	New Addition	Places in regulation what has been the practice for years.
12...3910-3950	12 VAC 5-420-220	Rewording - no substantive change.
12 VAC 5-420-3960	12 VAC 5-420-230	Rewording - no substantive change.
12 VAC 5-420-3970	12 VAC 5-420-240	Rewording - no substantive change.
12 VAC 5-420-3980	12 VAC 5-420-240.G	Rewording - no substantive change.
12 VAC 5-420-3990	12 VAC 5-420-240.F	Rewording - no substantive change.
12 VAC 5-420-4000	New Addition	Basically the same as now in regulations. Adds time limit to file and appeal of a permit denial and a variance denial.
12 VAC 5-420-4010	12 VAC 5-420-240.I	Same.
12 VAC 5-420-4020	12 VAC 5-420-250	Same.
12 VAC 5-420-4030	12 VAC 5-420-260	Same.
12 VAC 5-420-4040	12...270-280	Rewording - no substantive change.
12 VAC 5-420-4050	12 VAC 5-420-270	Rewording - no substantive change.
12 VAC 5-420-4060	New Addition	Places in regulation what has been the practice for years. Also, provides process or appeal of restriction or exclusion of an employee.

12 VAC 5-420-4070 New addition

Criteria for release of employee from restriction or exclusion.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The existing *Rules and Regulations Governing Restaurants* were reviewed by the Food Service Advisory Committee under Governor Allen's Executive Order #15 (94) and the committee recommended that they be amended. The review concluded the regulation to be essential; however, the committee did identify sections that may be burdensome. Such sections may be an interference to the industry that fails to enhance public health. The proposed amendments delete those sections.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

No public comment was received during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The Department used the FDA Model Food Code (1977) as the base document in writing the regulations. Industry personnel were involved in their writing and where the regulations were considered to be unclear, changes were made to make them clearer. Public comment received during the public comment period will help identify other problems with clarity.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The regulations will be reviewed within three years of their effective date, estimated to be July 1, 2000. Therefore, the regulations would be reviewed by July 1, 2003. The regulations will be reviewed to identify areas that are not clearly written, are burdensome to the industry, or need to be revised due to changes in food science or technology. The regulations will also be compared with the FDA Model Food Code in effect at that time to see if changes are necessary.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These regulations should not have any impact on the institution of the family and family stability.